

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD**

ALLAHABAD THIS THE 14<sup>TH</sup> DAY OF MARCH, 2005.

ORIGINAL APPLICATION NO. 470 OF 2004.

**HON'BLE MR. JUSTICE S.R. SINGH, VICE-CHAIRMAN.  
HON'BLE MR. D.R. TIWARI, MEMBER- A.**

1. R.P. Singh S/o Sri Chhedi Singh  
130/292, Ajeetganj, PO- T.P. Nagar,  
Kanpur.
2. Nem Chand S/o Putti Lal  
541/27, A Siamali Camp, WEL Road,  
P.O. Chowk, Lucknow.
3. Ram Achal, S/o Sri Sukh Raj  
Vill. Bangra, P.O. Tariya Bazar,  
Distt. Sidharth Nagar.
4. B.K. Sharma, S/o Sri R.C. Sharma  
138, HIG, Ratan Lal Nagar, Kanpur.
5. Sri Ram Swaroop S/o Sri Mohan Lal  
83 A/106, Juhi Sarla Building,  
P.O. Juhi, Kanpur.
6. Roop Narain, S/o Sri Nand Lal  
341, JI, Sheo Katra, Near KESA,  
P.O. Harsendra Nagar, Kanpur.
7. Bideshi Prasad S/o Sri Mangre Prasad  
12/1, Gwal Toli, Nala Road,  
P.O. Gwal Toli, Kanpur.
8. K.N. Mishra, S/o Sri Ram Adhar Mishra  
401, C Block, Shyam Nagar,  
P.O. Shyam Nagar, Kanpur.
9. Hari Nath S/o Sri Chandrika  
193/8, Vijai Nagar, P.O. Vijai Nagar,  
Kanpur.
10. Jagdeo Prasad S/o Sri Badli,  
7, Air Force Servants Quarter,  
Cantt, Kanpur.
11. Sheo Lal S/o Sri Sahdeo Prasad  
167/3, Rail Bazar, Kanpur.

*(Signature)*

12. Babu Lal S/o Sri Jagai  
H/8, Hording Road, Cantt. Kanpur.

13. R.N. Singh, S/o Sri Gopal Singh Chauhan  
128/5/184, A, Yashoda Nagar,  
P.O. Yashoda Nagar, Kanpur.

14. R.C. Mishra S/o Sri R.P. Mishra  
LIG, 27, Barra Bagh- 5.  
P.O. Barra, Kanpur.

15. Ram Lal S/o Sri Beesar,  
130/213, Begahi, P.O. T.P. Nagar,  
Kanpur.

16. Basant Lal S/o Sri Bhagwan Deen,  
63/42, Harbans Mohal, PO-Naroda Mall  
Road, Kanpur.

17. Radhey Shyam S/o Sri Har Prasad  
184, Type II, Kendranchal,  
Nao Basta, PO. Juhi, Kanpur.

18. R.K. Tiwari, S/o Sri Bal Krishna Tiwari  
78E/17, Dabauli II, PO Ratan Lal Nagar,  
Kanpur.

19. Ram Chandra S/o Sri Chhanga Ram  
83 A/82, Juhi, PO Juhi, Kanpur.

20. Raghu Raj Singh S/o Sri D.N. Singh  
H.No. 33, Vill. Kalyanpur Khurd,  
Post-Kalyanpur, Kanpur Nagar.

21. Bhola Mal S/o Sri Hasumal  
82/5, Block No. 9, Govind Nagar,  
PO- Govindnagar, Kanpur-2.

22. Ram Prasad S/o Sri Ujagar Singh,  
1031, WI Saket Nagar, PO- Juhi Depot,  
Kanpur.

23. Radhey Lal S/o Sri Gajodhar Prasad,  
K-428 A. PO- Yashoda Nagar, Kanpur.

24. Kishori Lal S/o Sri Munna Lal  
130/8 B, Begahi Bhatta, PO- T.P. Nagar,  
Kanpur.

.....APPLICANTS

Counsel for the applicants: - Sri Yar Mohammad

V E R S U S

1. Union of India through the Secretary,

*Re V*

M/o Defence, New Delhi.

2. Director General of Ordnance Services,  
Master General of Ordnance Branch,  
Army Headquarter, HDO P.O. New Delhi.
3. Commandant, Central Ordnance Depot,  
Kanpur.

..... RESPONDENTS

Counsel for the Respondents: -Sri V.V. Mishra

O R D E R

BY HON'BLE MR. JUSTICE S.R. SINGH, VC.

The applicants have instituted this OA under section 19 of Administrative Tribunals Act, 1985 for the following relief :-

- a) The impugned order of the Ministry of Defence as communicated by letter dated 16.07.2003 (Annexure-3 to the OA) be quashed.
- b) The cut off date (01.01.1996) in restructuring circular dated 20.05.2003 (Annexure- 4 to the OA) for treating the left out trade (Markers) as Skilled Grade be treated as 16.01.1981.

i). To direct the respondents to treat the Marker's trade at par with P&D trade from 16.10.1981 with increase in the pay scale given to them from time to time.

*RS*

ii). To direct the respondents to pay the difference of salary as a consequence of grant of skilled grade w.e.f. 16.10.1981 as has been given to P&D from time to time.

iii) To direct the respondents to prepare a combined seniority list of Markers and P&D and give promotion to the Markers to the post of Charge man, HS Gr. II/I (Now Craftsman) on the basis of combined seniority list.

2. The applicants have claimed the aforesaid reliefs with the allegation that the demand for merger of Markers with that of Painter and Decorators in Army Ordnance Corp (AOC) had been considered by the Expert Classification Committee (ECC) set up by Ministry of Defence in 1974 which submitted its report against merger in 1979 where upon the Workers Federation gave strike notice demanding 5<sup>th</sup> Central Pay Commission (CPC) scale for industrial workers as recommended by the 3<sup>rd</sup> CPC and the paper was prepared for Union Cabinet giving proposals for fitment of industrial workers of the Ministry of Defence into five scales. The Government of India, it is alleged, issued orders implementing the 5 pay scales in October 1981 where upon workers raised problems of anomalies in the JCM and, thereupon it was decided to set up official Anomalies Committee with workers participation. The Anomalies Committee, it is alleged, submitted its report in May 1984, which was

RAJ

both specific and general recommendations. Since the general in its recommendations of Anomalies Committee, 1984 were not implemented, a Sub Committee headed by Brig. S.A. Zamir known as Zameer Committee was constituted which after visiting the place of work and making in-depth study found that the Markers who used to get the same pay scale as that of Painters and Decorators up to 1981, performed the identical duties identical to those of P&D and recommended merger of Markers with **Painters and Decorators (Mate) (P&D)** with scale of pay admissible to P&D .

3. The OA is opposed by the respondents on the ground that the matter was examined by the 5<sup>th</sup> CPC which recommended the merger of Markers with Semi Skilled P&D in pay scale Rs. 800-1150 and the Government accepted the said recommendation. The P&D, it is alleged by the respondents, are classified as Skilled category whereas the applicants are treated as Semi Skilled Painters and Decorators (Mate), therefore, they are not entitled to claim special pay admissible to P&D.

4. We have considered the submission made by learned counsel for the parties and perused the recommendation made by the 5<sup>th</sup> CPC. In paragraph 63.314, the 5<sup>th</sup> Central Pay Commission has recommended the merger of Markers with the Semi Skilled Painter and Decorator

RAJ

6

(Mate) in the scale of Rs. 800-1150 in the following words :-

"It has been intimated that there is a long standing demands for parity of pay scales and merger of Markers with that of Painters and Decorators in AOC, we have considered the issue and find that in terms of essential qualification for direct recruitment, the existing Markers are at par with Semi Skilled Painters and Decorators (Mate). Keeping in view the similarity in job content, we recommend merger of Markers with the Semi Skilled Painter and Decorator (Mate) in the scale of Rs. 800-1150."

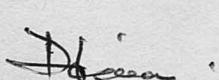
5. Classification of workers as Semi-Skilled and Skilled is essentially <sup>(15)</sup> ~~of~~ job of an expert body. The 5<sup>th</sup> CPC considered the issue and found that in terms of essential qualification for direct recruitment, the Markers should be treated at par with the Semi Skilled Painters and Decorators (Mate) and keeping in view the similarity in job content, recommended merger of Markers with the semi-skilled Painter and Decorator (Mate) in the scale of Rs. 800-1150. The said recommendation has admittedly been accepted by the Government.

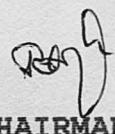
6. In the circumstances, it is not possible for us to issue a direction to the respondents to treat the Markers trade at par with Painter and Decorator (Mate)

*D.S.*

who have been classified in skilled category. The impugned order of Ministry of Defence communicated vide letter dated 16.07.2003 (Annexure- 3) rejecting the applicants' claim for being treated at par with Painter and Decorators suffers from no illegality . It is not disputed that restructuring circular dated 20.05.2003 (Annexure- 4 to the OA) relates to Skilled, Highly Skilled- I, Highly Skilled- II and Master Craftsman and in the modification made operative w.e.f. 01.01.1996, the trade of Markers is not covered by the said circular dated 20.05.2003. Since the Markers are treated as Semi Skilled, no direction can be issued to the respondents to give benefit of the said circular to Markers. The applicants, in our opinion, are not entitled to any of the reliefs claimed in the instant OA. Accordingly the OA fails and is dismissed.

7. There will be no order as to costs.

  
MEMBER- A.

  
VICE-CHAIRMAN.

/ANAND/